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Loophole Spying

Is the Defense Department still playing I Spy? We aren't sure. We know it accumulated millions of files on organizations and individuals; that agents infiltrated the Black Panthers and church ski clubs; that it spied on Abbie Hoffman and former governor Otto Kerner (presumably the army was interested in matters unrelated to Kerner's race track activities for which he was indicted last week). A classified document obtained recently by *The Phoenix*, a Boston weekly, reveals that army agents also kept tabs on labor leaders and unions. We know that the army stored its dossiers (crosslisted in 90 ways) in computer banks which could instantly provide information on an individual's financial status and sexual habits.

Six months ago, Sen. Sam Ervin (D, NC) wrote defense officials asking for details they had failed to provide at hearings last March before his subcommittee on constitutional rights. He has had no helpful answers and now realizes he won't get any. "They've [DOD officials] told us, in effect, they are finished talking with us," reports committee chief counsel Lawrence Baskir.

The army began snooping on civilians back in the 1920's, during the Red Scare, but the current operation dates to the early 60s, at the time of the first civil rights marches. Then in May 1968, an Information Collection Plan was devised to cope with "civil disturbances." That plan, according to Secretary of the Army Robert Froehlke, was "so comprehensive" that it sanctioned "any category of information related even remotely to people or organizations active in a community," where the army thought "the potential for a riot or disorder was present." Agents reported painstakingly on churchgoers who, in Sen. Ervin's words, "don't seem to have done anything except worship God."

The full extent of the operation reportedly became known to then Under Secretary of the Army, David McGiffert, around December 1968. Two months later, he issued a memorandum ordering intelligence commanders to sharply reduce spying, and prohibiting any "covert" intelligence gathering unless he specifically approved it. But *The Phoenix* document, a detailed intelligence plan, is dated April 23, 1969. The reason for the delay, Mr. Froehlke explained last spring, was that the army spent all of 1969 deciding how to carry out McGiffert's orders, so "full implementation of the memorandum . . . was held in abeyance." It was certainly "held in abeyance" during the November 1969 moratorium demonstration. At one rally in Washington, according to an army intelligence analyst, "there were more army people than Carter has pills." The McGiffert order notwithstanding, by 1970, says former intelligence officer Christopher Pyle, "army intelligence was in high gear."

Pyle made this charge in a January 1970 article in *The Washington Monthly*, and after its publication there was some action. In February, the army assistant joint chief of staff for intelligence ordered the US Army Intelligence Command to destroy its giant computer data banks at Ft. Holabird, Md. On April 1, the army "advised" the Continental US Army Command, which had directed a separate but similar operation, to destroy *its* computer data banks at Ft. Monroe, Va. Finally, on June 9, 1970, the army issued a grand order, which said little more than McGiffert's order of 16 months earlier, ending not only the computer operations but future army spying as well. To make sure Congress was listening, the Defense Department issued another order on March 1 of this year (one day before DOD officials testified before the Ervin subcommittee) prohibiting civilian spying by every service.

But have all the military computer data banks and intelligence files on civilians been destroyed? Former army general counsel Robert Jordan told Ervin he didn't even know the Ft. Holabird computer existed until he read Pyle's article in *The Washington Monthly*, after which he went to Ft. Holabird to investigate. Intelligence officials there told him they had no such computer. Jordan later found, of course, that they did (it was the mechanized brain of army intelligence), and asked if any other intelligence computer data banks existed. Again, the officials said no, but Jordan later spotted the Ft. Monroe computer, and discovered that the Third Army in Ft. Hood, Texas had its *own* computer to keep tabs on activists in Rocky Mountain states. Last spring, *The New York Times* got its hands on a computer printout which suggests that the army's Pentagon-level Counterintelligence Analysis Division has a fourth computer data bank, with perhaps the old information in different form. And Ervin's investigators believe the Pentagon's domestic "war room," Civil Disturbance Planning and Operations, has yet another.

Destroying the computer data banks doesn't destroy raw intelligence, filed in each of the army's 300 local intelligence offices across the country. Ervin nagged army officials until they assured him that those files, too, would be destroyed. There is some doubt that they have been. Intelligence agents report that "patriotic" colleagues saved their files from the pyre. The army promised to destroy the Compendium, a two-volume "blacklist" of organizations and individuals whom the army considers subversive, but one agent reports that "the orders didn't say burn the information, just destroy the Compendium." He microfilmed it. Froehlke claims that all copies of the Compendium were burned – except 12. The Chicago intelligence unit turned over its thick SDS and Weathermen folders to the Chicago police department.

Actually, the army has been distributing its secret intelligence [illegible] daily, even hourly reports (1200 a month) over teletype to

army commands in Alaska, Hawaii, Europe and Panama; to federal agencies like the FBI and CIA; and "undoubtedly to state and local agencies," says Froehlke: "it's impossible" to say the files were destroyed. In any event, the army has only said it was destroying files related to "civil disturbance" intelligence. The army classifies intelligence in other ways. So while the civil disturbance file on the NAACP may have been burned the same file may appear under another heading. "There is some information kept on almost [any] conceivable organization somewhere," DOD general counsel J. Fred Buzhardt told Ervin.

The Pentagon's March 1971 order forbids "collecting, reporting, processing, and storing information" on nonmilitary civilians – *except for operations related to civil disturbances,* which is precisely what all the army spying has been about. DOD thinks the exception contains an important safeguard, so important that Froehlke repeated it twice: "There shall be no covert or otherwise deceptive surveillance," he told Ervin. But Froehlke did not emphasize the next clause: *"unless specifically authorized by the Secretary of Defense or his designee";* or the next clause, which allows any local commander to order covert spying if he decides there's not enough time to ask for prior approval. In any case, Froehlke admitted there is "[illegible]her obscure demarcation" between "covert" and "[illegible]t" intelligence gathering. The army's June 1970 order said pretty much the same thing, to little effect: four months later, army agents were still filing reports on a Free Angela Davis rally in Madison, Wisconsin. The DOD order also prohibits computerized data banks on civilians or organizations, again, *"unless authorized"* by the secretary or a designee.

Secretary of Defense Melvin Laird says that we have nothing to fear, because under the latest DOD policy a top *civilian* official (himself) is in control. But top civilians knew about the spying operations long before McGiffert reportedly first became concerned back in December 1968. "The highest levels of civilian officials" participated "in planning and direction of the Information Collection Plan," Froehlke told Ervin. "Even in the detailed planning . . . both the White House and the Department of Justice had representatives."

Mr. Baskir, the Ervin subcommittee chief counsel, believes the army may have slowed down the operation for the time being. A Defense Investigative Review Council has been flying to intelligence field offices around the country to see if DOD's new orders are being followed. But DOD spokesman Robert Andrews won't tell the Senate subcommittee what it is finding, except that field performance is "uneven."

Ervin says he'll give the Pentagon until the middle of January to tell the whole army spying story – and then he'll send out subpoenas. Ervin could help if he published the army hearing transcripts so the public could read what they've got. [illegible]